



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

May 23, 1962

Honorable Mack Wallace Opinion No. WW-1338

County Attorney
Henderson County
Athens, Texas

Re: Whether male minors under the
age of 17 years and female
minors under the age of 18
years may be confined in jail
for failure to pay fines as-
sessed against them under
Section 14(a) of Article
666-17, V.P.C.

Dear Mr. Wallace:

In your recent letter you have asked the question whether or not a minor could be "confined to jail to lay out his fine in accordance with the ordinary rules concerning fines", where such minor has been fined for violating the provisions of Article 666-17, 14(a), V.P.C.

In Opinion No. WW-1171 this office held that Section 14(a) of Article 666-17, V.P.C., was an exception to Article 2338-1, V.C.S. Under Section 14(a) of Article 666-17 all persons under 21 years of age are subject to the penalty of a fine of from Ten to One Hundred Dollars for violating its provisions. We hereby affirm the holding in that opinion, a copy of which is attached hereto.

The general rule is that persons coming within the terms of the juvenile statutes may not be punished by incarceration for their violations of the law. In Opinion V-1328 this office held that juveniles prosecuted and fined under the provisions of Article 802d, subsequently modified and re-enacted as 802e, V.P.C., could be incarcerated in jail in lieu of the payment of the fines assessed. The minor could not be placed in the same cells as adult offenders but must be segregated as required by Section 17, Article 2338-1, V.C.S. Also, this office has held that juveniles may be taken to jail pending posting of bond in those instances where certain traffic regulations, enumerated in Article 802e, V.P.C., have been violated. (Opinion WW-547)

We think the instant situation is analogous thereto and inasmuch as the Legislature has seen fit to provide a fine for the prohibited act it necessarily follows that

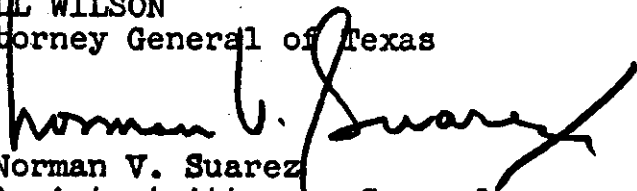
the fine to be effective must be collected either in cash or as is provided for by statute. Arts. 783, 785, 787 and 793 C.C.P. It seems to this office that public policy, as dictated by the enactment of the legislative body of the State, requires that the offender in these types of cases pay for his crime in time or money. We therefore hold in answer to your question that a minor can be confined in jail to lay out his fine in accordance with the statutory provision concerning fines in misdemeanor cases where he has been found guilty of violating Article 666-17 (14)(a), provided they are segregated from adult offenders. Art. 2338-1(17), V.P.C.

S U M M A R Y

All persons under 21 years of age are required by Section 14(a) of Art. 666-17, Vernon's Penal Code, upon conviction, to pay a fine of from Ten to One Hundred Dollars as assessed by the proper authority. If they are unable to pay such fine they must be confined in jail to lay out the fine as required by law or until such fine has been paid, provided they are segregated from adult offenders.

Yours very truly,

WILL WILSON
Attorney General of Texas

By 
Norman V. Suarez
Assistant Attorney General

NVS:sh
Enclosure

APPROVED:

OPINION COMMITTEE:
W. V. Geppert, Chairman
Jay Howell
W. O. Shultz
Charles Lind
John Hofmann

REVIEWED FOR THE ATTORNEY GENERAL
BY: Houghton Brownlee, Jr.